

**Teligent.** DOCKET FILE COPY ORIGINAL

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**FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY**

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June 29, 2001

VIA HAND DELIVERY

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

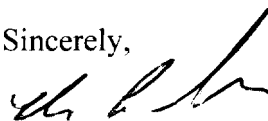
Re: The Communications Assistance for Law Enforcement Act (CALEA),  
Section 107(c) Extension of Capability Requirements,  
CC Docket No. 97-213.

Dear Ms. Salas:

Enclosed for filing please find one (1) original and five (5) copies of the Petition for Extension filed on behalf of Teligent, Inc. and its subsidiaries. Also enclosed please find a 3.5 diskette containing an electronic copy of this filing.

We ask that an additional copy of this filing be date-stamped and returned in the enclosed envelope. If you have any questions concerning this filing, please contact the undersigned at (703) 762-5510.

Sincerely,



Victoria A. Schlesinger  
Associate General Counsel

VAS/ab  
Enclosure

cc: Gail Teicher (FCC)  
Donna Dohrmann (FBI)

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**Before the  
Federal Communications Commission  
Washington, D.C.**

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In the Matter of	)	Teligent, Inc.
	)	TRS No. 815226
The Communications Assistance	)	
For Law Enforcement Act (CALEA),	)	Teligent Services, Inc.
Section 107(c) Extension of Capability	)	TRS No. 819967
Requirements	)	
	)	CC Docket No. 97-213
	)	

**PETITION FOR EXTENSION**

Teligent, Inc. ("Teligent"), on behalf of itself and its subsidiaries, hereby respectfully requests an extension of the Communications Assistance for Law Enforcement Act (CALEA) Section 103 capability requirements<sup>1</sup> pursuant to Section 107(c) of CALEA.<sup>2</sup> Specifically, Teligent requests a extension of the September 30, 2001 deadline for implementation of the additional capability requirements contained in the Commission's Third Report and Order implementing Section 103 of CALEA.<sup>3</sup>

Due to the fact that Teligent recently sought bankruptcy protection under Chapter 11 of the U.S. Bankruptcy Code and is now in the process of reorganization,<sup>4</sup> Teligent submits that a temporary waiver or extension of the September 30, 2001 deadline is necessary until such time as it emerges from the reorganization process. Currently, Teligent is unable to expend the funds

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<sup>1</sup> 47 U.S.C. § 1002.

<sup>2</sup> 47 U.S.C. § 1006(c).

<sup>3</sup> See Communications Assistance for Law Enforcement Act, *Third Report and Order*, 14 FCC Rcd 16794 (1999) (defining these additional capabilities as packet-mode communications and six (6) punch list capability requirements).

necessary to enable compliance with the additional capability requirements. In addition, because it is currently in a very active reorganization phase it cannot readily identify the facilities and/or services that it knows that for certain will survive the reorganization process. Thus, deployment of these additional capabilities is not only cost-prohibitive under the circumstances, but could result in the expenditure of unnecessary funds. Moreover, as discussed herein, Teligent has received only one (1) CALEA request from law enforcement and found that its current capabilities are able to satisfy that request. For these reasons, Teligent respectfully requests a temporary extension of the September 30, 2001 compliance deadline until it emerges from the reorganization process. In support of this request, Teligent provides the following:

**Pursuant to the Commission's *Public Notice* providing guidance on Section 107(c) petitions,<sup>5</sup> Teligent submits the following information in support of its Petition:**

On May 21, 2001, Teligent, Inc., along with its domestic subsidiaries, including those subsidiaries holding FCC licenses and service authorizations, filed a petition for protection under Chapter 11 of the United States Bankruptcy Code in the U.S Bankruptcy Court for the Southern District of New York ("Court").<sup>6</sup> Teligent sought Chapter 11 status in order to reorganize its operations and financial structure. Teligent hopes to emerge from this reorganization process as a stronger, more viable provider of fixed-wireless services. Teligent fully acknowledges its responsibilities to comply with all CALEA capability requirements, and intends to develop a

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<sup>4</sup> On May 21, 2001, Teligent filed a voluntary petition for bankruptcy protection under Chapter 11 and the U.S. Bankruptcy Code and sent a letter advising such to each of the FCC Commissioners, their Wireless and Common Carrier Advisors, and the Wireless Telecommunications and Common Carrier Bureaus.

<sup>5</sup> See CALEA Section 103 Compliance and Section 107(c) Petitions, *Public Notice*, CC Docket No. 97-213, FCC 00-0154, released April 25, 2001.

<sup>6</sup> See Case No. 01-12974 (SMB) (Bankr. S.D.N.Y.)

deployment schedule to upgrade its network as quickly as possible after its financial reorganization.

Currently, however, during this reorganization process, Teligent operates under strict spending constraints subject to stringent conditions imposed by its creditors and the bankruptcy court. Naturally, these spending limits severely limit Teligent's ability to make additional expenditures associated with its network beyond those necessary to maintain the *status quo* at this time. Teligent has been in negotiations with vendors that provide the software necessary to meet CALEA's September 30, 2001 capability requirements. The estimated cost of the upgrade is \$75,000 for *each* of Teligent's 21 switches, or \$1,575,000 total. This is in addition to the approximately \$3,750,000 Teligent *has already invested* to ensure full compliance with the interim standard (J-STD-025) by June 30, 2000, as required. In order to meet the Commission's September 30, 2001 deadline for the "punch list" capability compliance, Teligent would have to order this upgrade by June 30, 2001, a virtual impossibility given that Teligent would need to advance the over \$1.5 million dollars at the same time. The Court is extraordinarily unlikely at this phase of the reorganization to approve any new expenditure of this magnitude in a timeframe which would allow Teligent to meet the Commission's deadline. Teligent therefore finds itself unable to finance the additional CALEA-related upgrades at this time and therefore in a position where it must seek this extension.

It is also possible that Teligent will emerge from the reorganization process with different facilities or services at some of its switches, making it impossible at this time to judge with any certainty whether or not these expenditures should be made to certain equipment in Teligent's current network. Indeed, it is uncertain whether Teligent will maintain all of the facilities it currently supports as Teligent has already found it necessary to restructure its facilities in certain

markets.<sup>7</sup> For this reason, at this time Teligent is unable to propose a deployment schedule for approval by the Federal Bureau of Investigation (“FBI”) under the Bureau’s Flexible Deployment Program.<sup>8</sup>

Teligent has already implemented all of the capabilities required by J-STD-025, and is fully compliant with the current capability requirements of Section 103. Teligent achieved this level of compliance at considerable expense, and did so *without seeking an extension* of the June 30, 2000 deadline for compliance with J-STD-025.<sup>9</sup> Moreover, at this time, Teligent has received only one CALEA-related request in its over three and one half years of service history, and is able to provide the requested information using its existing capabilities. Thus, Teligent does not anticipate many or even any additional requests in the near future particularly during the short time period within which it is seeking to have this temporary waiver apply.

Wherefore, based on the foregoing, Teligent seeks a temporary waiver of the September 30, 2001, deadline until such time as Teligent emerges from reorganization.<sup>10</sup> At such time, Teligent will have the ability and information necessary to draw up a realistic deployment schedule for the implementation of the additional capability requirements. Teligent will work

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<sup>7</sup> See Section 63.71 Application of Teligent, Inc. and its Domestic Subsidiaries Holding Domestic Section 214 Authority, filed June 15, 2001 (seeking authority to discontinue the provision of certain domestic telecommunications services at some locations in some markets nationwide).

<sup>8</sup> Teligent notes that it did contact the FBI regarding this request, in order to explain its current situation and obtain advice concerning the substance of its petition for extension. Teligent spoke with Commission staff and an FBI representative about this petition and was advised to file a petition directly with the Commission under these unique circumstances. Specifically, Teligent contacted David Ward in the Common Carrier Bureau and Donna Dohrmann of the FBI CALEA Implementation center about how to proceed under the circumstances.

<sup>9</sup> Teligent notes that many, if not most, competitive local exchange carriers requested and received an extension of the deadline for complying with the capability requirements of Section 103 of CALEA. See Common Carrier Bureau Extends Preliminary Extension Date for CALEA Section 103 Compliance for Wireline Carriers to September 30, 2001, *Public Notice*, CC Docket No. 97-213, NSD-L-00-234, released June 22, 2001 (listing over 1,200 carriers that requested and received an extension of the June 30, 2001 deadline for compliance).

<sup>10</sup> Teligent will keep the Commission apprised of its progress during this process. Should the Commission determine that it is best to give Teligent a time-specific extension, *e.g.*, for six months or until March 2002 should Teligent still be in the reorganization process, it could seek a further extension as that new deadline approached.

with the FBI to develop an acceptable deployment schedule, and follow whatever procedures the FBI and the Commission may adopt for flexible deployment of the punch list capabilities.

Because Teligent must notify its equipment manufacturer of its intent to purchase the software upgrade necessary to implement the additional capability requirements on or about June 30, 2001, Teligent is requesting expedited treatment of this petition.

Should the Commission require additional information regarding Teligent's CALEA compliance, please do not hesitate to contact Terri B. Natoli, Esq., Vice President, Regulatory Affairs and Public Policy or Victoria A. Schlesinger, Esq., Associate General Counsel.

Respectfully submitted,  
**Teligent, Inc. and its Subsidiaries**

By:   
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Vice President, Regulatory Affairs and Public Policy

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Dated: June 29, 2001